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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/803,736	03/12/2001	David F. Bush	38-10(15493)D	8682

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ARNOLD & PORTER
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555 12TH STREET, N.W.
WASHINGTON, DC 20004-1206

EXAMINER

SWITZER, JULIET CAROLINE

ART UNIT	PAPER NUMBER
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1634

DATE MAILED: 11/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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09 803 736

EXAMINER

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PAPER

1103

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Commissioner for Pat nts

1. The amendment filed on 7/28/03 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because they are drawn to method claims which were restricted away from the product claims in the parent application. The method claims were cancelled herein prior to the beginning of prosecution, so no restriction requirement was set forth in this application. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 1 and 20 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03..

2. Furthermore, it is noted that the amendment filed 7/28/03 is a non-compliant amendment as it amends (and attempts to reinstate) previously cancelled claim 1. A claim canceled by amendment (deleted in its entirety) may be reinstated only by a subsequent amendment presenting the claim as a new claim with a new claim number (37 CFR Rule 1.121(c)). Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Juliet C Switzer whose telephone number is (703) 306-5824. The examiner can normally be reached on Monday through Friday, from 9:00 AM until 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones can be reached on (703) 308-1152. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 and (703) 305-3014.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Juliet C Switzer Examiner Art Unit 1634

November 4, 2003